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## FISCAL IMPACT REPORT

ORIGINAL DATE 2-6-2006

SPONSOR Silva LAST UPDATED \_\_\_\_\_ HB 862

SHORT TITLE Commercial Driver's License Changes SB \_\_\_\_\_

ANALYST Dearing

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	None		
	*Please See Narrative		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Public Safety (DPS)  
 State Highway & Transportation (SHT)  
 Administrative Office of the Courts (AOC)

### SUMMARY

#### Synopsis of Bill

House Bill 862 creates a new section of the New Mexico Commercial Driver's License Act. The provisions of this newly created section are written such that; with the exception of parking violations, all traffic control law violations which are committed by holders of commercial driver's licenses would be known to the State of New Mexico, via commercial driver's license information systems as mandated by the 1986 federal Commercial Motor Vehicle Safety Act. Accordingly, commercial drivers would not be eligible to enter into diversion, deferral, or masking programs for the purpose of reducing the impact on drivers by diminishing the infractions' significance on their records. Diversion programs have the consequence of obfuscating drivers' violation records, which is particularly problematic with multi-state drivers, who may have interred into numerous programs, in multiple jurisdictions.

Additionally, definitions are inserted to define state of domicile, as well as minor linguistic changes clarifying the requirements of issuance of commercial driver's licenses. The new language substitutes a clause specifying a driver's domicile, for the currently written residency requirement.

## FISCAL IMPLICATIONS

HB862 does not make an appropriation. The bill would impact magistrate, municipal and metropolitan court budgets because of increased caseloads and jury trials. In addition, it is anticipated that more of these traffic cases will be appealed to district court and will impact the district courts, as well, however, this bill addresses issues of noncompliance to the CDL Act. Any State found to be in substantial noncompliance is *\*subject to the withholding of 5 percent of the Federal-aid highway funds that would otherwise be apportioned to that State under 23 U.S.C. § 104(b)(1), (b)(3) and (b)(4) on the first day of the fiscal year following such State's first year of noncompliance. Following the second and subsequent year(s) of noncompliance, a State is subject to the withholding of 10 percent of these funds.*

FMCSA may also take action under 49 CFR § 384.405 to decertify the State's CDL program and prohibit the issuance of CDLs if a determination is made that the deficiencies affect a substantial number of either CDL applicants or drivers. This action is not linked to the withholding of funds and may be imposed at any time after the initial determination of noncompliance.

\*As noted below in Significant Issues, this bill is expected to have significant impact to the judiciary by leading to many more trials, more vigorously defended trials, and more jury trials, increasing courts' effective caseloads. Processing and hearing the cases, in contrast to present, typically expedited traffic cases hearings, will require far greater judicial and staff time and other court resources. Some time will be necessary to educate judges and court staff concerning the amended statutes.

## SIGNIFICANT ISSUES

Deferment and diversion programs are very commonly applied to traffic violations, often together, perhaps along with community service and contributions to funds related to public welfare and safety. It must be said that, in many, many cases, judges believe that justice in New Mexico is best served by these remedies.

By extension, the bill requires immediate imposition of convictions of traffic violations, along with penalties, points to driving records and notification to insurers and employers, even if the CDL holder was in a private vehicle and was not exercising commercial driving privileges. Because of the impacts, a great many commercial drivers will have to contest the charges and contest them strenuously to protect their licenses and livelihoods, even if they are not employed as such at the time. This will hold true even if the violation occurred while not in a commercial vehicle or driving commercially.

Tickets now most frequently dispensed with by deferred convictions, diversion programs, community service and contributions to funds such as Crime-Stoppers deemed worthy by the Legislature would, if the bill were enacted, lead to many more trials, which would be defended vigorously, requiring significantly greater court resources. Rules require a magistrate judge hearing a traffic violation to order a jury trial if requested, requiring further court resources, in addition to which would be payments to jurors. These trials may clog court dockets and reduce clearance rates.

The bill does not differentiate between holders of New Mexico CDLs and those of other states; truckers and drivers from across the nation may find their livelihoods and driving privileges imperiled by the bill.

**PERFORMANCE IMPLICATIONS**

According to the Administrative Office of the Courts, because the courts participate in performance-based budgeting, this bill may impact those performance based budgeting measures identified for FY07, which may result in a need for additional resources. If enacted, the court resources and time required to dispose of any unit of cases would likely increase, reducing clearance rate.

**WHAT ARE THE CONSEQUENCES OF NOT ENACTING THIS LEGISLATION?**

Failure to enact this legislation has the effect of placing 5-10% of annual federal Highway Funding in peril.

PD/mt